

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SUSAN DIANE HULTS,

Plaintiff,

v.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,

Defendant.

3:14-cv-01234-TC

FINDINGS AND
RECOMMENDATION

COFFIN, Magistrate Judge:

On August 1, 2014, plaintiff filed a complaint for review of the final decision of the commissioner (ECF No. 2) and an application to proceed in forma pauperis (IFP) (ECF No. 1). The Court granted plaintiff's application to proceed IFP on August 4, 2014 and ordered plaintiff within 30 days to:

- (1) Prepare an original summons for each defendant and submit it to the Clerk of Court for issuance;
- (2) Provide the original and three copies of each summons, three copies of the complaint, and three copies of the procedural order issued in this case to the Clerk of Court for service; and
- (3) Complete the U.S. Marshals Service Form (USM285) for service of process and submit it to the Clerk of Court.

(ECF No. 5). To date, plaintiff has not submitted original summons to the Clerk of Court for issuance nor has proof of service been filed.

On October 29, 2014, the court issued an order to show cause why this action should not be dismissed for failure to serve summons and complaint on defendant and failure to follow a court order. ECF No. 8. To date, plaintiff has failed to respond to the order to show cause.

Proof of service must be made to the court. FED. R. CIV. P. 4(l). "If a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time." FED. R. CIV. P. 4(m). As of December 5, 2014, one-hundred twenty-seven (127) days have elapsed since the complaint was filed without proof of service having been filed.

Accordingly, this action should be dismissed for failure to follow a court order and failure to prosecute.

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due no later than fourteen days after the date this order is filed. The parties are advised that the failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, any party may file a response within fourteen days after the date the objections are filed. Review of the Findings and Recommendation will go under advisement when the response is due or filed, whichever date is earlier.

Dated this 8 day of December 2014.



THOMAS M. COFFIN
United States Magistrate Judge